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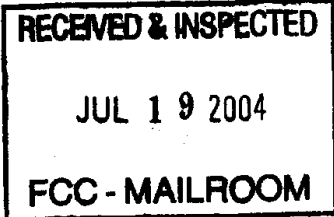
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July 14, 2004

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street S.W., Suite TW-A325
Washington, DC 20554



re: NASUCA Petition for Declaratory Ruling Regarding Truth-in-Billing,
WC Docket No. 04-208.

Dear Ms. Dortch:

The Massachusetts Office of the Attorney General ("Massachusetts AG") files this letter in support of the Petition for Declaratory Ruling filed by the National Association of State Utility Consumer Advocates ("NASUCA") on March 30, 2004.¹ The Massachusetts AG requests that the Federal Communications Commission ("FCC" or "Commission") prohibit telecommunications carriers from imposing line item surcharges and fees on consumer bills unless a regulatory agency has expressly mandated the fees.

1. Background

NASUCA asserts that seven wireline interexchange carriers and nine wireless carriers are labeling their discretionary line item surcharges as "carrier cost recovery fees," "regulatory assessment fees," and "program cost recovery fees" even though no regulatory body requires the carriers to charge those fees to consumers.² NASUCA states that the carriers separate these discretionary fees from their monthly base prices on the premise the FCC indirectly allowed such itemization in its 1999 Truth-In-Billing Order³ and its 2002 USF Contribution Order.⁴

¹ *National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Monthly Line Item Surcharges Imposed by Telecommunications Carriers*, CG Docket No. 04-208 (filed March 30, 2004) ("NASUCA Petition").

² NASUCA Petition at 12-23.

³ *Truth-in-Billing and Billing Format*, CC Docket No. 98-170, First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-72 (rel. May 11, 1999).

⁴ *Federal State Joint Board on Universal Service*, Docket No. 96-45, Report and Order and Second Further Notice of Proposed Rulemaking, FCC 02-329 (rel. Dec. 13, 2002); NASUCA Petition at v, vi.

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NASUCA contends that the labels carriers use to describe these fees are not standardized as required by the TIB Order and that the Commission, in its 2002 USF Contribution Order, created a line item loophole inadvertently allowing carriers to recover their ordinary operating costs through separate line items without Commission scrutiny.⁵ This lack of standardization, according to NASUCA: (1) frustrates consumers' ability to make informed decisions about carriers based on advertised rates; (2) allows carriers to hide their true cost of service by separating low monthly prices from line item fees; and (3) gives carriers an incentive to over-recover their costs because no regulatory agency has scrutinized the surcharges.⁶

NASUCA urges the FCC to close the line item loophole it created by investigating and then prohibiting unjustified surcharges.⁷ NASUCA asserts that the "regulatory compliance" labels mislead and deceive consumers, and that the fees bear no demonstrated relationship to the regulatory costs they claim to recover. Perfunctory disclaimers used by the carriers to explain their fees (e.g., "this is not a tax or mandated by government") merely heighten, not lessen, customer confusion.⁸ NASUCA urges the FCC to find that these charges are unreasonable and unjust under Sections 201 and 202 of the Communications Act of 1934.⁹

2. The Commission Should Grant the NASUCA Petition.

The Massachusetts AG supports the NASUCA Truth-in-Billing Petition. Currently, the Commission does not regulate these line item surcharges and consumers must rely solely on existing market forces to keep these fees in check. Market pressure alone, however, is not sufficient to ensure that consumers are not deceived or to ensure that consumers can make accurate price comparisons. The Commission should act to protect consumers by prohibiting the carriers' current line item surcharge practice.

* The impact of this practice on Massachusetts consumers is significant. FCC data show that there were 4.4 million reported wireline subscribers and 3.7 million reported wireless subscribers in Massachusetts as of December 31, 2003.¹⁰ Assuming that these Massachusetts customers paid

⁵ NASUCA Petition at v, vi.

⁶ Id. at 7, 8.

⁷ Id. at 68.

⁸ Id. at 36.

⁹ Id. at 37.

¹⁰ *FCC Local Telephone Competition Report, Status as of December 31 2003*, released June 18, 2004. Table 6 reflects 4,390,002 total Massachusetts end user switched access local lines and Table 13 reflects 3,741,975 total Massachusetts wireless subscribers as of December 31, 2003. Some Massachusetts subscribers have both wireline and wireless phones.

between \$.45 and \$1.10 per month¹¹ in discretionary line item surcharges, the carriers receive at least \$43 million to \$106 million each year from Massachusetts customers in undocumented, uninvestigated, and unregulated "regulatory compliance" fees.

The Commission should grant the NASUCA Petition because this problem spans several industries within the Commission's jurisdiction and is not specific to any carrier or group of carriers. So far, the wireline industry and the wireless industry have exploited the line item loophole. The Commission should also address the line item loophole in the context of a third emerging industry, the Voice over Internet Protocol ("VoIP") industry to ensure that the changes present in new VoIP technologies do not increase customer confusion regarding billing.¹²

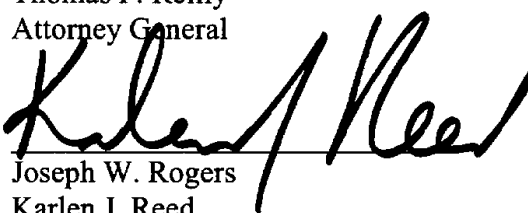
3. Summary

The Massachusetts Attorney General supports the NASUCA Petition and asks the Commission to prevent telecommunications carriers from charging unjust and unreasonable rates that include discretionary and undocumented line item surcharges.

Respectfully submitted,

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cc: Ms. Kelli Farmer, FCC (via email only)
Qualex International (via email only)

¹¹ NASUCA Petition at 19-21.

¹² See Massachusetts Attorney General's Reply Comments filed in the Commission's VoIP rulemaking docket, *IP-Enabled Services*, WC Docket 04-36 (filed July 14, 2004).